instruments received from Florance or on his behalf without first obtaining authorization of a judge of this court.

AFFIRMED; ORDER ISSUED PROHIBITING FUTURE FILINGS. **

Rule 14.1(i)(ii)—Companion Case: Trial Court Opinion and Judgment

UNITED STATES TAX COURT
WASHINGTON, DC 20217

SCOTT WALLIS,	)	
Petitioner	)	
v.	)	Docket No. 8244-04
COMMISSIONER OF	)	
INTERNAL REVENUE,	)	
Respondent	)	

ORDER OF DISMISSAL AND DECISION

This case was calendared for the March 14, 2005, Trial Session in Dallas, Texas. No appearance was made by or on behalf of petitioner. Counsel for respondent appeared before the Court and filed a motion to dismiss for lack of prosecution. Upon due consideration, and for reasons further appearing in the transcript of this case, it is

ORDERED that respondent's motion to dismiss for lack of prosecution, filed March 14, 2005, is granted, and this case hereby is dismissed for lack of prosecution. It is further

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** [N.B.: There very well may be matters to address when that bridge is crossed. If the present ruling, as stated, prevents a meltdown in DOJ, then there's value in this ruling. WmCS]

ORDERED AND DECIDED that there is a deficiency in income tax due from petitioner as follows:

Year	Deficiency	Penalty under I.R.C. § 6651(a)(1)	Penalty under I.R.C. § 6654
2000	$3,503.00	$ 875.75	$187.11
2001	$7,628.00	$1,907.00	$304.82

(Signed) Maurice B. Foley

Maurice B. Foley
Judge

ENTERED: **NOV 30 2005**

Rule 14.1(i)(ii)—Companion Case: Trial Court Motion

UNITED STATES TAX COURT

SCOTT WALLIS,	)	
Petitioner	)	
v.	)	Docket No. 8244-04
COMMISSIONER OF INTERNAL REVENUE,	)	
Respondent	)	

MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED AND TO IMPOSE A PENALTY UNDER I.R.C. § 6673

RESPONDENT MOVES, pursuant to the provisions of Tax Court Rule 40, that the Court dismiss this case for failure to state a claim upon which relief can be granted, and that the Court find in its order that there are due from Petitioner deficiencies in income tax and additions to tax for the years and in the amounts set forth in the Notices of Deficiency dated February 18, 2004, upon

which Notices this case is based. [1]

IN SUPPORT THEREOF, Respondent respectfully states: [⊥ 2]

1. Respondent, in the Notices of Deficiency issued to Petitioner on February 18, 2004, copies of which are attached as Exhibits A and B, respectively, determined deficiencies and additions to tax for the 2000 and 2001 tax years as follows:

Year	Deficiency	§ 6651 Addition to tax	§ 6654 Addition to tax
2000	$35,197.00	$8,799.25	$1,880.05
2001	$52,808.00	$13,202.00	$2,110.39

2. Subsequent to the issuance of the Notices of Deficiency, Respondent received additional information from Petitioner and determined that the deficiencies and additions to tax should be adjusted downward. Respondent issued the revised findings for 2000 and 2001 in two letters dated May 7, 2004, copies of which are attached as Exhibits C and D, respectively. In these letters, Respondent determined deficiencies and additions to tax for the 2000 and 2001 tax years as follows:

Year	Deficiency	§ 6651 Addition to tax	§ 6654 Addition to tax
2000	$3,503.00	$875.75	$187.11
2001	$7,628.00	$1,907.00	$304.82

3. Respondent, in the revised findings issued to Petitioner as set forth above, determined deficiencies and additions to tax for the 2000 and 2001 tax years based upon [⊥ 3] income received by Petitioner from interest and debt cancellation.

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[1] Respondent made significant concessions in the Answer. Respondent seeks only the deficiencies and additions to tax set forth in the Answer and paragraph two of this motion.

4. On May 18, 2004, Petitioner filed a Petition with this Court and alleged a disagreement with the Notices of Deficiency and revised deficiency letters. The Petition, a copy of which is attached as Exhibit E, is not in conformance with Tax Court Rule 34(b).

5. Tax Court Rule 34(b) provides in pertinent part that the petition in a deficiency action shall contain "clear arid concise assignments of each and every error which the Petitioner alleges to have been committed by the Commissioner in the determination of the deficiency or liability. ... Any issue not raised in the assignment of errors shall be deemed to be conceded."

6. Petitioner's assignment of errors, upon which this case is based, alleges several frivolous constitutional arguments, including, but not limited to:

(a) Collections agents are working for an undisclosed principle and/or an undisclosed fiduciary; therefore there is no duty to pay taxes.

(b) There is no basis for the peralties or interest asserted. [⊥ 4]

(c) The Secretary has not signed the Notices of Deficiency nor has the Secretary submitted any other statements or claims to the Petitioner.

7. Petitioner makes no material allegations of fact in support of any of the errors assigned in the Petition but argues only vaguely stated law and legal conclusions therein.

8. No justiciable error has been alleged in the Petition with respect to the Commissioner's determination set forth in the Notices of Deficiency or revised deficiency letters and no facts in support of any such error are apparent therein. The absence in the Petition of specific justiciable allegations of error and of supporting facts permits this Court to grant Respondent's Motion. Tax Court Rule 123(b). Carskadon v. Commissioner, T.C.

Memo. 2003-237; Bernsdorff v. Commissioner, T.C. Memo. 1994-634; Klein v. Commissioner, 45 T.C. 308 (1965); Goldsmith v. Commissioner, 31 T.C. 56 (1958).

9. The document filed in this case is not a proper petition, but rather is a statement making frivolous constitutional arguments with no factual basis. Petitioner's positions are totally without merit. This Court and other Federal Courts have repeatedly upheld the validity of the Federal income tax laws against such challenges. Michael v. [⊥ 5] Commissioner, T.C. Memo. 2003-26; Johnson v. Commissioner, T,C. Memo. 1999-312; Abrams v. Commissioner, 82 T.C. 403 (1984).

10. The document filed as the Petition does not comply with the Rules of the Tax Court as to the form and content of the Petition and fails to state a claim upon which relief can be granted.

11. Petitioner merely filed this Petition as a protest to paying income taxes. Furthermore, Petitioner has filed excessively burdensome and frivolous documents with the Court such as Petitioner's Objection to Rule 50, Petitioner's Objection to Rule 120, a *Pollock I* Notice, Wallis' First Notice of Lien on Judge Joel Gerber, and Wallis' Second Notice of Lien on Respondent's Counsel, copies of which are attached as Exhibits F, G, H, I and J, respectively. Such action falls within the bounds of I.R.C. § 6673, based on the fact the Petitioner has instituted these proceedings primarily for the purpose of delay and the Petitioner's position in the case is groundless and frivolous. Respondent requests the Court impose § 6673 sanctions in an amount it deems appropriate as the Court has done so in other such frivolous cases.

12. Pursuant to I.R.C. § 7491(c), Respondent bears the burden of production in any court proceeding with respect to the imposition of penalties and additions to tax. [⊥ 6]

a.) Respondent asserts that Petitioner is liable for I.R.C. 6651(a) (1) additions to tax for the 2000 and

2001 tax years. Attached as Exhibits K and L are certified MFTRA-X transcripts for Petitioner's 2000 and 2001 tax years, respectively, showing that Petitioner failed to file federal income tax returns for the 2000 and 2001 tax years.

b.) Respondent asserts that Petitioner is liable for I.R.C [2] § 6654 additions to tax for the 2000 and. 2001 tax years. The MFTRA-X transcripts of Petitioner's accounts for 2000 and 2001 (Exhibits K and L) show. that Petitioner failed to make any estimated income tax payments in those years. Additionally, attached as Exhibit M is a certified IRPTR transcript for Petitioner's 1999 tax year showing that Petitioner had an income tax liability for the 1999 tax year and is not excepted from making estimated tax payments toward the 2000 tax year under I.R.C. § 6654(e)(2). [1 7]

WHEREFORE, Respondent prays that this Motion be granted and that this Court impose sanctions in an appropriate amount pursuant to I.R.C. S 6673.

DONALD L. KORB
Chief Counsel
Internal Revenue Service

Date: FEB 0 4 2005 By: */s/ Brook R. Barrow*
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[2] As such in the original.

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Area Counsel
(Small Business/Self-Employed, Area 6)
LINDA L. WONG
Associate Area Counsel
(Small Business/Self-Employed, Area 6) [⊥ 8]

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED AND TO IMPOSE A PENALTY UNDER I.R.C. § 6673 was served on Petitioner by mailing the same on FEB 0 4 2005 in a postage paid wrapper addressed as follows:

Scott Wallis
[appropriate address]

Date FEB 0 4 2005 */s/ Brook R. Barrow*
BROOK R. BARROW
Senior Attorney
(Small Business/Self-Employed)
Tax Court Bar No. RB0206